

PUBLIC EMPLOYMENT RELATIONS COMMISSION

REPRESENTATION PROCEDURES

Readoption with Amendments: N.J.A.C. 19:11

Proposed: April 4, 2005 at 37 N.J.R. 961(a)

Adopted: June 30, 2005 by the Public Employment Relations Commission, Lawrence Henderson, Chairman

Filed: June 30, 2005 as R. _____, without change

Authority: N.J.S.A. 34:13A-5.4e; 34:13A-6d, and 34:13A-11

Proposal Number: PRN 2005-109

Effective Date: Readoption: June 30, 2005
Amendments: August 1, 2005

Expiration Date: June 30, 2010

Summary of Public Comments and Agency Responses

No comments were received.

Federal Standards Statement

Because these rules are not subject to federal standards and requirements, a Federal exceedance analysis is not required. The National Labor Relations Act excludes from its coverage "any State or political subdivision thereof." 29 U.S.C. §152(2).

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:11.

Full text of the adopted amendments follows:

SUBCHAPTER 1. REPRESENTATION PETITIONS

19:11-1.5 Petition for clarification of unit

(a) (No change.)

(b) A petition for clarification of unit shall contain:

1.-2. (No change.)

3. A statement by petitioner listing and explaining fully the reasons for the proposed clarification. The reasons may include:

- i. Changed circumstances
- ii. Creation of a new position or title
- iii. Dispute over a title in a newly certified/recognized negotiations unit
- iv. New operation or facility
- v. Statutory exclusions
- vi. Any other reasons why the petition is appropriate

4. (No change.)

19:11-1.6 Petition for amendment of certification

(a)-(b)(No change.)

(c) A petition for amendment of certification shall be supported by an affidavit attesting that the membership of the certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

1. The membership was given advance and adequate notice of the election, as evidenced by an attached copy of a notice of election and a statement of the date of the notice and the manner in which it was provided to members;

2. The election was conducted by secret ballot, as evidenced by an attached copy of the ballot, and was held within six months of the filing of the petition;

3. A majority voted in favor of the change in name and affiliation, as evidenced by a document setting forth the results; and

4. (No change).

(d) A petition for amendment of certification will be served by the Director of Representation on all organizations that are part of a certified majority representative. Each organization will be given an opportunity to request intervention under N.J.A.C. 19:11-2.7. If intervention is permitted, the petition will be dismissed if any intervening organization objects to processing the petition.

SUBCHAPTER 2. PROCESSING OF PETITIONS

19:11-2.1 Validity of showing of interest

The showing of interest shall not be furnished to any of the parties. The Director of Representation shall determine the adequacy of the showing of interest and such decision shall not be subject to collateral attack. Neither the nature nor the size of the showing of interest shall be divulged. The showing shall be returned to the petitioner once the case is closed.

19:11-2.3 Withdrawal or dismissal of Petition

(a) (No change.)

(b) If it appears to the Director of Representation or the assigned hearing officer that the petitioner has no further interest in processing its petition, the Director or the hearing

officer may request the party filing such a petition to withdraw the petition without prejudice or, in the absence of such a withdrawal, may dismiss the petition within a reasonable time and after appropriate notice.

(c) Within 15 days after the date a petition has been dismissed, a petitioner may file a motion to reopen with the Director of Representation. The petitioner shall file an original and two copies of such motion, together with proof of service of a copy on all other parties. Any party opposing the motion may file an original and two copies of its response within five days of receipt of the motion, together with proof of service of a copy on all other parties. The motion may be granted based on a showing of extraordinary circumstances or to prevent an injustice.

19:11-2.7 Intervention

(a-e) (No change.)

(f) To intervene in a proceeding initiated by a petition for amendment of certification, an employee organization must submit evidence that it is an organization that is part of the currently certified representative of the employees named in the petition.

(g) (No change in text.)

(h) (No change in text.)

19:11-2.8 Timeliness of petitions

(a)-(c) (No change.)

(d) For the purpose of determining a timely filing, an agreement for a term in excess of three years will be treated as a three-year agreement and will not bar a petition filed at any time after the end of the third year of the agreement; an agreement for an indefinite term shall be treated as a one-year agreement measured from its effective date and will not bar a petition filed at any time after the end of the first year of the agreement.

SUBCHAPTER 6. HEARINGS

19:11-6.7 Stipulations of facts

(a) (No change.)

(b) Stipulations of fact may be accepted by the Director of Representation or the hearing officer for a decision without a hearing.

(c) The acceptance of stipulations of facts by the Director of Representation or the hearing officer may be deemed a waiver of a right to hearing. The parties may also agree to waive a hearing officer's report and recommendations.

19:11-6.9 Motions

(a-b) (No change.)

(c) No further arguments, documents or affidavits shall be filed except by leave granted by the Director of Representation, hearing officer or Commission as set forth in (a)1, 2, or 3 above. A request for leave shall be in writing, accompanied by

proof of service of a copy on all other parties.

(d) (No change in text.)

(e) (No change in text.)

(f) (No change in text.)

SUBCHAPTER 8. REQUEST FOR COMMISSION REVIEW

19:11-8.4 Statement in opposition to a request for review;
further statements.

Within seven days of service on it of a request for review, any party may file with the Commission an original and nine copies of a statement in opposition to the request, together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties.

SUBCHAPTER 9. TRANSFER TO THE COMMISSION, RECONSIDERATION

19:11-9.3 Motion for Commission reconsideration

After a Commission decision has been issued, a party may move for reconsideration. The movant shall specify the extraordinary circumstances warranting reconsideration and the pages of the record it relies on. Any motion pursuant to this section shall be filed within 15 days of service of the Commission decision, together with proof of service of a copy on all other parties. Any party opposing reconsideration may file a response within five days of service on it of the motion,

together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties. The filing and pendency of a motion for reconsideration shall not operate to stay the effectiveness of the Commission decision, unless otherwise ordered by the Commission. A motion for reconsideration need not be filed to exhaust administrative remedies.

SUBCHAPTER 10. ELECTION PROCEDURES

19:11-10.2 Notices of Election; improper use of notices

(a) Notices of election shall be provided by the Director of Representation to the public employer for posting. The employer shall post such notices where notices are normally posted affecting the employees involved in the election. Such notices shall remain posted until the ballots are counted and shall set forth the details and procedures for an election, the appropriate unit, the eligibility period, and the date(s), hours and place(s) of the election and shall contain a sample ballot.

(b) (No change.)